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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,108	03/29/2004	Robert Lee Donovan	BA/Div App	1513
26860	7590	08/11/2006	EXAMINER	
LAW OFFICE OF DUNCAN PALMATIER 530 SOUTH ASBURY SUITE 5 MOSCOW, ID 83843			BURCH, MELODY M	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,108

Applicant(s)

DONOVAN, ROBERT LEE

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17 and 19-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17 and 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because different embodiments should be illustrated in separate views. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the

amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Claim Objections

3. Misnumbering. There are two claims 23. Examiner has interpreted the last claim to be claim 24. Please renumber accordingly.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 22-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 22. The phrase "a cylindrical projection" in line 2 of claim 22 is indefinite. It is unclear to the Examiner whether the cylindrical projection in claim 22 is intended to be the same or different from that set forth in claim 21. The remaining claims are rejected due to their dependency from claim 22.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 17, 21, and 22 are rejected under 35 U.S.C. 102(e2) as being anticipated by US Patent 6718964 to Graf.

Re: claims 17 and 21. Graf shows in figures 1, 6, and 7a vibration damping device for an archery bow 22 comprising an archery bow with a cylindrical projection 16 as shown in figures 1 and 6, a vibration damper 17 formed of a single piece of elastomeric material as shown in figures 6 and 7 and disclosed in col. 4 lines 56-57 and having a cylindrical, ring shaped base with an inner cylindrical ring surface, and an axis along the length of the cylindrical ring shaped base and a radius from the axis to the inner cylindrical ring surface as shown in figure 7, the damper further comprising a plurality of fins shown between elements 31 in figure 7 extending from the ring shaped base in a radial direction from the axis, wherein each of the plurality of radial fins has a fin base at a proximal end of the fin at the ring base and a fin tip at a distal end of the fin, and wherein the radial fins are not constrained as shown and are free to vibrate and wherein the distance between the proximal end and the distal end of the fins is at least as great as the radius as shown in figure 7, and wherein the inner cylindrical ring surface fits over the cylindrical projection 16 of the archery bow. Graf shows 6 fins.

Re: claim 22. Graf shows in figures 1 and 6 a cylindrical projection 16 extending forward from the archery bow as shown in figure 1 wherein the inner cylindrical ring surface mounts to the cylindrical projection by way of intervening portions of element 17 as shown in figure 6 as best understood.

Claim Rejections - 35 USC § 103

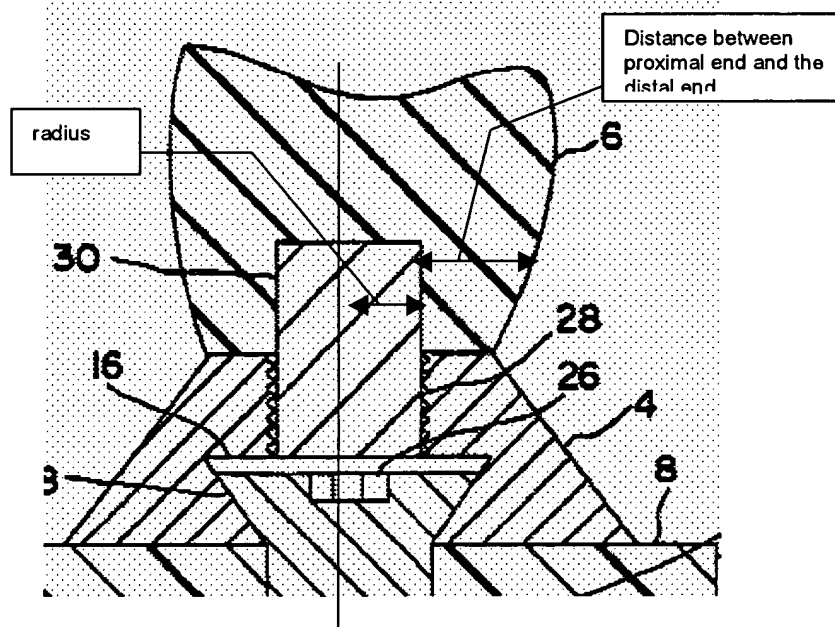
8. Claims 17, 19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6526957 to Leven.

Re: claims 17, 21, and 22. Leven shows in figure 1 a vibration damping device for an archery bow comprising an archery bow 2 with a cylindrical projection 20,30, a vibration damper 6 formed of a single piece of elastomeric material as disclosed in col. 2 lines 64-66 and having a cylindrical, ring shaped base with an inner cylindrical ring surface, and an axis along the length of the cylindrical ring shaped base and a radius from the axis to the inner cylindrical ring surface as labeled in the marked up copy of figure 3 on this page, the damper further comprising a plurality of fins shown in the area of the lead line of number 6 shown in figure 2 extending from the ring shaped base in a radial direction from the axis, wherein each of the plurality of radial fins has a fin base at a proximal end of the fin at the ring base and a fin tip at a distal end of the fin, and wherein the radial fins are not constrained and are free to vibrate and wherein the distance between the proximal end and the distal end of the fins is at least as great as the radius as shown in the marked-up copy of figure 3 below, and wherein the inner cylindrical ring surface fits over the cylindrical projection or portion 30 of the cylindrical projection of the archery bow.

Leven fails to show the number of fins. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960) in which the court held that mere duplication of parts is unpatentable unless a new and unexpected result is produced.

Re: claim 19. Leven shows wherein the cylindrical projection of the archery bow

is a mounting cup 26 sized to be disposed within the inner ring surface of the vibration damper.



Allowable Subject Matter

9. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. No foam is inserted in mounting cup 26 of Leven and there is no reason besides hindsight to have modified the cup to have included foam.

10. Claims 23 and 24 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 5/30/06 have been fully considered but they are not persuasive.

Applicant argues that the projections shown between elements 31 are not fins because Graf's invention inserts spring rods into elements 31. Examiner notes that regardless of whether recesses 31 are fitted with spring rods, the projections shown between the recesses 31 are properly considered to be fins. Applicant also argues that since the recesses are filled with spring rods, the fins are not constrained and free to vibrate. Examiner maintains that figure 7 shows the damper in a state in which its recesses are not filled with spring rods. Examiner maintains that at least in this state, the fins are not constrained and are free to vibrate. In response to Applicant's argument that it was improper to remove from consideration the rods 19, Examiner notes that Graf clearly shows the rods physically removed from the damper. Therefore, it is reiterated that in the state shown in figure 7, the fins are not constrained and are free to vibrate.

Applicant also argues that amended claim 17 requires fins having a length "at least half" the overall radius of the damper and states that Graf fails to show this limitation. Examiner first notes that the claim does not recite "overall radius" but merely refers to the "radius". Secondly, Examiner maintains that at least in the area of the fin (which makes up a part of the damper) the radius of the damper and the fin length

coincide with each other. Accordingly, the fin length is at least half of the radius of the damper in the area of the fin.

With respect to Graf, Applicant also argues that none of the ribs of Graf joins the radial fins as claimed. The claim recites that the stabilizing annular ring is located in the middle portion and joins the radial fins. In Graf the stabilizing annular ring 21 is located in the middle portion and joins the radial fins or projections shown between elements 31. The ring and the fins are joined by intervening portions of element 17 as shown in figure 6. Applicant further argues that element 21 of Graf is not a concentric, cylindrical stabilizing annular ring placing emphasis on the term "annular". Graf describes element 21 as a radial projection that extends all the way around element 23. The fact that it extends all the way around element 23 sets forth its annular nature. Examiner maintains that the inner hole of element 21 is filled with portions of element 23.

With respect to Leven, Applicant argues that Leven fails to show a "vibration damper formed of a single piece of elastomeric material." Examiner maintains that the vibration damper of Leven is represented by element 6. Element 6 is clearly shown and described as a single piece of elastomeric material. With regards to the cylindrical ring shaped base see the bottom portion of element 6 particularly in the area surrounding element 30. With regards to the argument that Leven fails to show fins, Examiner maintains that the projections on element 6 are properly considered as fins. The limitation of the damper specifically having six or more fins is addressed in the 103 rejection above. With respect to the arguments regarding the fin length and damper dimensions, Examiner notes that the same analysis used in response to the Graf

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reference applies to the Leven reference. Accordingly, the rejections have been maintained.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb
August 7, 2006

Melody M. Burch
Melody M. Burch
Primary Examiner
Art Unit 3683
8/7/06